

106TH CONGRESS
2D SESSION

H. R. 5387

To provide a transition for railroad workers to the Social Security Program,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 4, 2000

Mr. SMITH of Michigan introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Railroad Retirement
5 Reform Act of 2000”.

6 **SEC. 2. PROTECTION OF SOCIAL SECURITY FUNDS.**

7 (a) IN GENERAL.—Section 15A(d)(2) of the Railroad
8 Retirement Act of 1974 (45 U.S.C. 231n–1(d)(2)) is
9 amended to read as follows:

1 “(2) No funds may be transferred from the Social
 2 Security Equivalent Benefit Account to the Railroad Re-
 3 tirement Account or the Railroad Retirement Trust Fund,
 4 and such funds may only be used for the purposes de-
 5 scribed in subsection (c)(1).”.

6 (b) CONFORMING AMENDMENT.—Section 15A(c)(1)
 7 of the Railroad Retirement Act of 1974 (45 U.S.C. 231n-
 8 1(c)(1)) is amended by striking “Except as otherwise pro-
 9 vided in this section, amounts” and inserting “Amounts”.

10 (c) EFFECTIVE DATE.—The amendments made by
 11 this section shall take effect on October 1, 2000.

12 **SEC. 3. TRANSITION TO FULL SOCIAL SECURITY COVERAGE**
 13 **OF RAILROAD EMPLOYMENT.**

14 (a) RAILROAD WORKERS IN SOCIAL SECURITY SYS-
 15 TEM.—

16 (1) IN GENERAL.—Section 210(a)(9) of the So-
 17 cial Security Act (42 U.S.C. 410(a)(9)) is amended
 18 by inserting “before January 1, 2002” after “per-
 19 formed”.

20 (2) PAYMENT OF FICA TAXES.—

21 (A) IN GENERAL.—Section 3121(b)(9) of
 22 the Internal Revenue Code of 1986 (defining
 23 employment) is amended by inserting “before
 24 January 1, 2002” after “performed”.

25 (B) NO IMPOSITION OF TIER 1 TAXES.—

1 (i) Section 3201(a) of such Code is
2 amended by adding at the end the fol-
3 lowing: “This subsection shall not apply to
4 service performed in calendar years after
5 2001.”.

6 (ii) Section 3211(a)(1) of such Code
7 is amended by adding at the end the fol-
8 lowing: “This paragraph shall not apply to
9 service performed in calendar years after
10 2001.”.

11 (iii) Section 3221(a) of such Code is
12 amended by adding at the end the fol-
13 lowing: “This subsection shall not apply to
14 service performed in calendar years after
15 2001.”.

16 (b) RAILROAD RETIREES IN SOCIAL SECURITY SYS-
17 TEM.—

18 (1) RECEIPT OF SOCIAL SECURITY BENEFITS.—

19 Notwithstanding any other provision of law, with re-
20 spect to any individual who applies for a benefit
21 under the Railroad Retirement Act of 1974 after
22 December 31, 2002, based on such individual’s rail-
23 road employment or another individual’s railroad
24 employment, such individual shall receive a cor-
25 responding benefit (or an increased benefit) under

1 the Social Security Act determined by treating such
2 employment as included in the term “employment”
3 as defined in the Social Security Act.

4 (2) CORRESPONDING REDUCTION IN RAILROAD
5 RETIREMENT BENEFIT.—With respect to any indi-
6 vidual described in paragraph (1), any benefit other-
7 wise receivable under the Railroad Retirement Act of
8 1974 shall be reduced by the benefit (or the increase
9 in the benefit) described in such paragraph.

10 (3) EFFECT ON FINANCIAL INTERCHANGE.—In
11 calculating any financial interchange between the so-
12 cial security system and the railroad retirement sys-
13 tem, the Commissioner of Social Security and the
14 Railroad Retirement Board shall take into account
15 the provisions of, and the amendments made by, this
16 section.

17 (4) OPTIONAL PAYMENT OF SOCIAL SECURITY
18 BENEFITS BY RAILROAD RETIREMENT BOARD.—

19 (A) IN GENERAL.—Subject to subpara-
20 graph (B), at the election of Railroad Retire-
21 ment Board, social security benefits described
22 in paragraph (1) for railroad retirees may be
23 paid by the Board on behalf of the Social Secu-
24 rity Administration.

1 (B) REQUIREMENTS FOR ANNUAL ELEC-
2 TIONS.—The Railroad Retirement Board may
3 elect annually to continue making benefit pay-
4 ments described in subparagraph (A), if the
5 Commissioner of Social Security certifies that
6 the Board is paying such benefits on-time and
7 is providing high quality customer service to all
8 new retirees.

9 (5) TECHNICAL AND CONFORMING CHANGES.—
10 The Commissioner of Social Security, the Railroad
11 Retirement Board, and the Secretary of the Treas-
12 ury, as soon as practicable but in any event not later
13 than 180 days after the date of enactment of this
14 Act, submit to the Committee on Ways and Means
15 of the House of Representatives and the Committee
16 on Finance of the Senate a draft of any technical
17 and conforming changes in the Social Security Act,
18 the Railroad Retirement Act of 1974, and the Inter-
19 nal Revenue Code of 1986 which are necessary to re-
20 flect throughout such Acts and Code the changes in
21 the substantive provisions of law made by this sec-
22 tion.

1 **SEC. 4. REPEAL OF GENERAL FUND SUBSIDY TO RAILROAD**
 2 **RETIREMENT ACCOUNT.**

3 (a) REPEAL.—Subsection (c)(1)(A) of section 224 of
 4 the Railroad Retirement Solvency Act of 1983 is repealed.

5 (b) EFFECTIVE DATE.—The repeal made by sub-
 6 section (a) shall take effect on October 1, 2000.

7 **SEC. 5. EMPLOYER, EMPLOYEE REPRESENTATIVE, AND EM-**
 8 **PLOYEE TIER 2 TAX RATE ADJUSTMENTS.**

9 (a) RATE OF TAX ON EMPLOYERS.—Subsection (b)
 10 of section 3221 of the Internal Revenue Code of 1986 is
 11 amended to read as follows:

12 “(b) TIER 2 TAX.—

13 “(1) IN GENERAL.—In addition to other taxes,
 14 there is hereby imposed on every employer an excise
 15 tax, with respect to having individuals in his employ,
 16 equal to the applicable percentage of the compensa-
 17 tion paid during any calendar year by such employer
 18 for services rendered to such employer.

19 “(2) APPLICABLE PERCENTAGE.—For purposes
 20 of paragraph (1), the term ‘applicable percentage’
 21 means the percentage determined under section
 22 3241 for such calendar year.”.

23 (b) RATE OF TAX ON EMPLOYEE REPRESENTA-
 24 TIVES.—Paragraph (2) of section 3211(a) of the Internal
 25 Revenue Code of 1986 is amended to read as follows:

26 “(2) TIER 2 TAX.—

1 “(A) IN GENERAL.—In addition to other
2 taxes, there is hereby imposed on the income of
3 each employee representative a tax equal to the
4 applicable percentage of the compensation re-
5 ceived during any calendar year by such em-
6 ployee representatives for services rendered by
7 such employee representative.

8 “(B) APPLICABLE PERCENTAGE.—For
9 purposes of subparagraph (A), the term ‘appli-
10 cable percentage’ means the percentage deter-
11 mined under section 3241 for such calendar
12 year.”.

13 (c) RATE OF TAX ON EMPLOYEES.—Subsection (b)
14 of section 3201 of the Internal Revenue Code of 1986 is
15 amended to read as follows:

16 “(b) TIER 2 TAX.—

17 “(1) IN GENERAL.—In addition to other taxes,
18 there is hereby imposed on the income of each em-
19 ployee a tax equal to the applicable percentage of
20 the compensation received during any calendar year
21 by such employee for services rendered by such em-
22 ployee.

23 “(2) APPLICABLE PERCENTAGE.—For purposes
24 of paragraph (1), the term ‘applicable percentage’

1 means the percentage determined under section
 2 3241 for such calendar year.”.

3 (d) DETERMINATION OF RATE.—Chapter 22 of the
 4 Internal Revenue Code of 1986 is amended by adding at
 5 the end the following new subchapter:

6 **“Subchapter E—Tier 2 Tax Rate**
 7 **Determination**

“Sec. 3241. Determination of tier 2 tax rate based on average account benefits ratio.

8 **“SEC. 3241. DETERMINATION OF TIER 2 TAX RATE BASED**
 9 **ON AVERAGE ACCOUNT BENEFITS RATIO.**

10 “(a) IN GENERAL.—For purposes of sections
 11 3201(b), 3211(a)(2), and 3221(b), the applicable percent-
 12 age for any calendar year is the percentage determined
 13 in accordance with the table in subsection (b).

14 “(b) TAX RATE SCHEDULE.—

Average account benefits ratio		Applicable percentage for sections 3211(b) and 3221(b)	Applicable percentage for section 3201(b)
At least	But less than		
	1.0	31.1	4.9
1.0	1.5	28.1	4.9
1.5	2.0	25.1	4.9
2.0	2.5	22.1	4.9
2.5	3.0	18.1	4.9
3.0	3.5	15.1	4.9
3.5	4.0	14.1	4.9
4.0	6.1	13.1	4.9
6.1	6.5	12.6	4.4
6.5	7.0	12.1	3.9
7.0	7.5	11.6	3.4
7.5	8.0	11.1	2.9
8.0	8.5	10.1	1.9
8.5	9.0	9.1	0.9
9.0		8.2	0

1 “(c) DEFINITIONS RELATED TO DETERMINATION OF
2 RATES OF TAX.—

3 “(1) AVERAGE ACCOUNT BENEFITS RATIO.—

4 For purposes of this section, the term ‘average ac-
5 count benefits ratio’ means, with respect to any cal-
6 endar year, the average determined by the Secretary
7 of the account benefits ratios for the 10 most recent
8 fiscal years ending before such calendar year. If the
9 amount determined under the preceding sentence is
10 not a multiple of 0.1, such amount shall be in-
11 creased to the next highest multiple of 0.1.

12 “(2) ACCOUNT BENEFITS RATIO.—For pur-
13 poses of this section, the term ‘account benefits
14 ratio’ means, with respect to any fiscal year, the
15 amount determined by the Railroad Retirement
16 Board by dividing the fair market value of the assets
17 in the Railroad Retirement Account as of the close
18 of such fiscal year by the total benefits and adminis-
19 trative expenses paid from the Railroad Retirement
20 Account during such fiscal year.

21 “(d) NOTICE.—No later than December 1 of each
22 calendar year, the Secretary shall publish a notice in the
23 Federal Register of the rates of tax determined under this
24 section which are applicable for the following calendar
25 year.”.

1 (e) CONFORMING AMENDMENT.—The table of sub-
 2 chapters for chapter 22 of the Internal Revenue Code of
 3 1986 is amended by adding at the end the following new
 4 item:

“Subchapter E. Tier 2 tax rate determination.”.

5 (f) EFFECTIVE DATE.—The amendments made by
 6 this section shall apply to calendar years beginning after
 7 December 31, 2002.

8 **SEC. 6. TRANSITION TO A PRIVATE RAILROAD PENSION**
 9 **FUND.**

10 (a) TRANSMISSION OF PROPOSAL.—The labor and
 11 management members of the Railroad Retirement Board
 12 shall transmit a plan by June 1, 2001, to the Secretary
 13 of Labor for a multiemployer pension plan for individuals
 14 who would otherwise be covered by the Railroad Retire-
 15 ment Act of 1974.

16 (b) FUNDING OF PLAN.—If the plan described in
 17 subsection (a) is certified by the Secretary of Labor by
 18 October 1, 2001, as a bona fide plan—

19 (1) the Secretary of the Treasury shall make an
 20 annual payment (on or before December 31, begin-
 21 ning with 2001) from the Railroad Retirement Ac-
 22 count to the fund relating to such plan in an amount
 23 specified by the Secretary of Labor (on or before
 24 December 1, beginning with 2001) as being the min-
 25 imum amount necessary (taking into consideration

1 any funding deposited into such fund pursuant to
2 subsection (e)) to assure—

3 (A) full funding for all new entrants using
4 Employee Retirement Income Security Act
5 funding standards;

6 (B) full funding of all accruing pension ob-
7 ligations for benefits elected to be included in
8 the plan under subsection (d)(1) (if any) using
9 Employee Retirement Income Security Act
10 funding standards; and

11 (C) adequate funding to meet the on-going
12 pension payments for any Railroad Retirement
13 Act pension obligations that have been trans-
14 ferred to the plan under subsection (d)(2) (if
15 any); and

16 (2) notwithstanding any other provision of law,
17 the new entrants shall no longer be entitled to bene-
18 fits under the Railroad Retirement Act of 1974.

19 (c) CERTIFICATION REQUIREMENTS.—

20 (1) IN GENERAL.—For purposes of subsection
21 (b), to be certified by the Secretary of Labor as a
22 bona fide plan, the plan must

23 (A) provide a defined benefit pension plan
24 for all new entrants; and

1 (B) meet fiduciary and other requirements
2 of the Employee Retirement Income Security
3 Act of 1974 deemed necessary and applicable
4 by the Secretary of Labor.

5 (2) NEW ENTRANT.—For purposes of this sec-
6 tion, a new entrant is a person hired after December
7 31, 2001, who would otherwise be covered by the
8 Railroad Retirement Act of 1974 and who has never
9 previously been covered by such Act.

10 (d) OPTIONAL ELEMENTS OF PLAN.—

11 (1) ADDITIONAL BENEFITS.—The plan sub-
12 mitted to the Secretary of Labor may include provi-
13 sion of pension benefits for persons other than new
14 entrants (and auxiliary beneficiaries of new en-
15 trants), if such benefits are fully funded under the
16 standards of the Employee Retirement Income Secu-
17 rity Act of 1974.

18 (2) TRANSFER OF EXISTING OBLIGATIONS.—
19 The plan may also include the transfer of existing
20 Railroad Retirement Act pension obligations (other
21 than social security equivalent benefit obligations).
22 To transfer these pensions obligations, the Railroad
23 Retirement Board must certify to the Secretary of
24 Labor, for each individual beneficiary affected by
25 such transfer, that the beneficiary will get his or her

1 pension payment from the plan in lieu of a payment
 2 from the Railroad Retirement Account.

3 (e) AGREED PLAN DEPOSITS.—Employers and em-
 4 ployees covered by the multiemployer pension plan cer-
 5 tified under this section may directly deposit pension fund
 6 contributions into the fund and such deposits shall be
 7 taken into consideration by the Secretary of Labor for
 8 purposes of the payment amount specified in subsection
 9 (b).

10 **SEC. 7. REPEAL OF 4.3-CENT MOTOR FUEL EXCISE TAXES**
 11 **ON RAILROADS AND INLAND WATERWAY**
 12 **TRANSPORTATION WHICH REMAIN IN GEN-**
 13 **ERAL FUND.**

14 (a) TAXES ON TRAINS.—

15 (1) IN GENERAL.—Subparagraph (A) of section
 16 4041(a)(1) of the Internal Revenue Code of 1986 is
 17 amended by striking “or a diesel-powered train”
 18 each place it appears and by striking “or train”.

19 (2) CONFORMING AMENDMENTS.—

20 (A) Subparagraph (C) of section
 21 4041(a)(1) of such Code is amended by striking
 22 clause (ii) and by redesignating clause (iii) as
 23 clause (ii).

24 (B) Subparagraph (C) of section
 25 4041(b)(1) of such Code is amended by striking

1 all that follows “section 6421(e)(2)” and insert-
2 ing a period.

3 (C) Subsection (d) of section 4041 of such
4 Code is amended by redesignating paragraph
5 (3) as paragraph (4) and by inserting after
6 paragraph (2) the following new paragraph:

7 “(3) DIESEL FUEL USED IN TRAINS.—There is
8 hereby imposed a tax of 0.1 cent per gallon on any
9 liquid other than gasoline (as defined in section
10 4083)—

11 “(A) sold by any person to an owner, les-
12 see, or other operator of a diesel-powered train
13 for use as a fuel in such train, or

14 “(B) used by any person as a fuel in a die-
15 sel-powered train unless there was a taxable
16 sale of such fuel under subparagraph (A).

17 No tax shall be imposed by this paragraph on the
18 sale or use of any liquid if tax was imposed on such
19 liquid under section 4081.”

20 (D) Subsection (f) of section 4082 of such
21 Code is amended by striking “section
22 4041(a)(1)” and inserting “subsections (d)(3)
23 and (a)(1) of section 4041, respectively”.

1 (E) Paragraph (3) of section 4083(a) of
2 such Code is amended by striking “or a diesel-
3 powered train”.

4 (F) Paragraph (3) of section 6421(f) of
5 such Code is amended to read as follows:

6 “(3) GASOLINE USED IN TRAINS.—In the case
7 of gasoline used as a fuel in a train, this section
8 shall not apply with respect to the Leaking Under-
9 ground Storage Tank Trust Fund financing rate
10 under section 4081.”

11 (G) Paragraph (3) of section 6427(l) of
12 such Code is amended to read as follows:

13 “(3) REFUND OF CERTAIN TAXES ON FUEL
14 USED IN DIESEL-POWERED TRAINS.—For purposes
15 of this subsection, the term ‘nontaxable use’ includes
16 fuel used in a diesel-powered train. The preceding
17 sentence shall not apply to the tax imposed by sec-
18 tion 4041(d) and the Leaking Underground Storage
19 Tank Trust Fund financing rate under section 4081
20 except with respect to fuel sold for exclusive use by
21 a State or any political subdivision thereof.”

22 (b) FUEL USED ON INLAND WATERWAYS.—

23 (1) IN GENERAL.—Paragraph (1) of section
24 4042(b) of such Code is amended by adding “and”
25 at the end of subparagraph (A), by striking “, and”

1 at the end of subparagraph (B) and inserting a pe-
2 riod, and by striking subparagraph (C).

3 (2) CONFORMING AMENDMENT.—Paragraph (2)
4 of section 4042(b) of such Code is amended by strik-
5 ing subparagraph (C).

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall take effect on October 1, 2000.

○